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SUBJECT: MFA SENDS FOLLOW-UP LETTER TO IAEA; REVIEWS WORK
ON DFI SUCCESSOR MECHANISM

REF: BAGHDAD 0118

Classified By: Charge d'Affaires, a.i., Robert S. Ford, for reasons 1.4
b and d.

11. (C) SUMMARY: FM Zebari has sent a second follow-up letter to IAEA Director General Amano making explicit the GOI intent to provisionally apply the Additional Protocol (AP). The short February 17 letter states that the AP "will be implemented provisionally as of the date of this letter pending its entry into force." MFA officials underscored the need to proceed with urgency on the UNSC Presidential Statement and subsequent lifting of UNSCs 687 and 707. On a separate issue, the MFA officials on February 14 underscored that the GOI had made significant progress on the preparations for its April 1 report to the UNSC on a DFI successor mechanism. They said that the Iraqi Board of Supreme Audit, the lead agency on the Oil-for-Food issue, had reviewed all 69 outstanding oil contracts and its report would call for the immediate close-out of 60 of them. END SUMMARY.

12. (C) FM Zebari has sent a second follow-up letter to IAEA Director General Yukiya Amano making explicit the GOI's intent to provisionally apply the Additional Protocol (AP). The short February 17 letter (see para. 9 for text) states that the AP "will be implemented provisionally as of the date of this letter pending its entry into force."

13. (C) DFM Mohammed al-Haj Hamoud agreed in a February 14 meeting with Dep Pol/C to send the second follow-up letter. (Also attending the meeting was Mohammed al-Hamameidi, Director for International Organizations, and Fareed Yasseen, senior policy advisor.) Hamoud and his advisors reviewed the suggested language Dep Pol/C provided and agreed to send the follow-up letter, making two basic points:

-- Iraq declares it will apply the Additional Protocol provisionally pending its entry into force; and

-- Iraq requests to meet with appropriate IAEA officials as soon as possible to discuss next steps on implementation of the AP.

The request for consultations with the IAEA on next steps did not make it into the text of the FM's letter, although the GOI is clearly ready to begin such consultations, as these officials made clear in the meeting.

14. (C) The MFA officials expressed ambivalence about whether the letter should state the GOI's commitment to provide its initial declaration, "required under the AP within 180 day." (NOTE: In the end, the letter did not mention the "required" declaration. END NOTE.) Yasseen reasoned that "Iraq is always late on these things" so GOI officials needed to be careful about starting the 180-day clock and thereby setting up expectations with the IAEA that the GOI could not meet. He also made the point that the GOI would need IAEA technical assistance to prepare this declaration, which could take a

few months to arrange. Yasseen noted that the Ministry of Science and Technology would need to be heavily involved in the preparation of the report, which would also be time-consuming. Hamameidi told Dep Pol/C February 19 that he had discussed the issue of the declaration with experts at the Iraqi National Monitoring Directorate/Ministry of Higher Education, who expressed confidence the GOI could prepare the report within the 180-day period.

15. (C) The Iraqi officials underscored the need to proceed with urgency on the PRST and the hoped-for eventual lifting of UNSCRs 687 and 707. Hamameidi expressed hope that the both actions could occur by March. Hamoud acknowledged that a slower pace might be required and said it was important to proceed carefully to ensure eventual success. Qproceed carefully to ensure eventual success.

DFI FOLLOW-ON ARRANGEMENTS

16. (C) Switching gears, Pol Dep/C raised the issue of GOI progress on a DFI successor mechanism. Yasseen and Hamameidi both expressed deep satisfaction with the substantive level of progress the GOI had made. Yasseen noted that the GOI had sought out highly professional, expert technical advice on this issue. He noted that he had reviewed the previous day a progress report on DFI prepared by the Central Bank of Iraq (CBI) and found it to be in excellent shape. The issue is being handled in a Chapter VII issues committee chaired at the MFA by FM Zebari, according to Yasseen. He acknowledged that there was a second committee, or "sub-committee" on this issue, chaired by DPM Rowsch Showays, but according to Yasseen, "the real work" was being done at the MFA. He underlined the key role that the CBI played on the issue and

emphasized that CBI governor Sinan al-Shabibi, with a deputy, played a key role at the MFA meetings. Yasseen said the committee had prepared a timeline for progress on DFI and was on schedule. He and Hamameidi were confident that the GOI would be ready to submit its required DFI report to the UNSC by the April 1 deadline. Hamameidi noted that the GOI intended to finalize the report by March 15 and provide a copy for -- and seek comments from -- the International Advisory Monitoring Board (IAMB), which includes a representative of the UNSYG. They expected that submission to allow the SYG and his staff to preview the report and shape the subsequent official reception of the document.

17. (C) Hamameidi reported that the Iraqi Board for Supreme Audit (IBSA) had reviewed all 69 outstanding oil contracts and its upcoming report would call for the immediate close-out of 60 of them. The GOI officials thought the OFF report was also "in good shape." They did not expect the March 7 elections to impact on preparations for the April 1 report. The only indirect effect might be the occasional absence of FM Zebari, who is campaigning for a Council of Representatives seat and could be absent a bit more than usual. Hamoud did not view this as a major problem and noted "it is the only one." Hamameidi cautioned that the elections and aftermath could have more of an impact on the preparation of the follow-up report to the Council.

18. (C) In a February 15 meeting with Embassy Legal Adviser, PM Legal Adviser Dr. Fadel Jawad Kadhum noted that he had received a report from the CBI concerning follow-on arrangements. Fadel expressed concern that Iraq's U.S.-based assets will be vulnerable to attachment when the DFI immunities and Executive Order protections expire and stated that he was considering whether these protections should be renewed. Embassy Legal Adviser replied that when DFI and E.O. protections expire, Iraq's assets will be afforded the same immunities from legal process as are enjoyed by other foreign sovereigns under U.S. law. Iraq should work towards resolving outstanding Saddam-era claims, including U.S. citizen claims and commercial claims, to eliminate the need for these extraordinary and temporary protections.

19. (U) Begin text of letter:

Dear Mr. Amano,

I am pleased to refer to the two letters that I sent to your Excellency on 18 January 2010, and 25 January 2010, in which I stated Iraq's commitment to the rules and regulations of Non-Proliferation, as well as ensuring free access to sites and documents as provided for in the Additional Protocol. In this letter, I would like to state to you that in accordance with Article 17 of the Additional Protocol, which was signed between Iraq and the International Atomic Energy Agency on 9 October 2008, this protocol will be implemented provisionally as of the date of this letter pending its entry into force.

Please accept my appreciation and utmost respect.

Hoshyar Zebari, Foreign Minister, Republic of Iraq, 17
February 2010

End Text.
FORD